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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO.               |
|--|-------------|----------------------|-------------------------|--------------------------------|
| 10/698,142   | 10/31/2003  | Scott E. Moore       | 500170.14 (29785/US/7)  | 2932                           |
| 7590   | 08/05/2005  |                      |                         | EXAMINER<br>RACHUBA, MAURINA T |
| Steven H. Arterberry, Esq.<br>DORSEY & WHITNEY LLP<br>Suite 3400<br>1420 Fifth Avenue<br>Seattle, WA 98101 |             |                      | ART UNIT<br>3723        | PAPER NUMBER                   |
|  |             |                      | DATE MAILED: 08/05/2005 |                                |

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                       |                  |
|------------------------------|-----------------------|------------------|
| <b>Office Action Summary</b> | Application No.       | Applicant(s)     |
|                              | 10/698,142            | MOORE, SCOTT E.  |
|                              | Examiner<br>M Rachuba | Art Unit<br>3723 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 May 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 85-96 is/are pending in the application.
- 4a) Of the above claim(s) 94-96 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 85-93 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 94-96 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of species 1 in the reply filed on 29 November 2004 is acknowledged.
2. Newly submitted claims 94-96 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 94 is directed to the species of figure 2; claim 95 is directed to the species of figure 3; claim 96 is directed to the species of figure 3.

Since applicant has received an action on the merits for the originally presented generic invention, with no specific species claimed, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 94-96 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. On allowance of a generic claim, claims 94-96 will be rejoined.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 85 and 91-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolles et al US005738574A in view of Wilson et al, US006149512A, as set forth in the Office action mailed 24 February 2005.

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5. Claims 85 and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al, US006149512A in view of Tolles et al US005738574A, as set forth in the Office action mailed 24 February 2005.

6. Claims 86 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolles et al US005738574A in view of Wilson et al, US006149512A as applied to claim 85 above, and further in view of Inaba et al, US006093080A, as set forth in the Office action mailed 24 February 2005 .

7. Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al, US006149512A in view of Tolles et al US005738574A and further in view of Tietz US006135859A, as set forth in the Office action mailed 24 February 2005.

***Response to Arguments***

8. Applicant's arguments filed 27 May 2005 have been fully considered but they are not persuasive. Applicant argues that Tolles does not disclose detecting the frictional force between the conditioning body and planarizing medium by the first support member moving responsive to the frictional force, the moving of the first support member transmitting a force to a force sensor. The examiner does not agree. Tolles, column 6, lines 50 through column 7 lines 56, discusses the conditioning device and how the frictional force is detected. As the frictional force between the medium and conditioning body changes, the amount of torque required to drive the conditioning body increases or decreases (therefore the frictional force is detected). The increase or decrease in drive torque is inherently a result of the rotation of the shaft (the first support) that connects the conditioner body to the rotational drive. If the conditioner

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body moves from a glazed section of the medium, (where the frictional force between the body and medium is low, therefore the torque required to drive the shaft is low) to an unglazed section, the torque changes because the rotational speed of the body, and therefore the shaft supporting the body, changes. The frictional force is detected by movement of the first support member (the shaft connecting the body to the drive) relative to the drive, in that the drive acts as a force sensor. Barring further limitations to steps directed to the specific type of sensor, and how it is connected to the conditioning device, it is the examiner's position that Tolles does disclose the claimed method, albeit with a rotating polishing medium, rather than the linear medium taught by Wilson.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is 571-272-4493. The examiner can normally be reached on Monday-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M Rachuba  
Primary Examiner  
Art Unit 3723

6/3/05